



COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR. SIMONE GRECH B.A., LL.D., Mag. Jur. (EU Law)

Collisions Sitting

The Police

vs

Mohamed Imran Ghulam Nabi

Today, the 16th day of January, 2024

The Court;

Having seen the charges brought against Mohamed Imran Ghulam Nabi, holder of identity card number 9000320A, whereby he was charged that:

"...with having on the 29th May 2017 at about 17:32hrs in Triq F.S Caruana, Msida drove vehicle with registration no: BBU716;

- 1. or any other vehicle without a driver's license*
- 2. And also drove said vehicle without a policy of insurance or such security in respect of third party risks,*
- 3. And moreover through imprudence, negligence and unskillfulness in your art or profession, and non observance of the motor vehicle regulations, collided in said*

vehicle and caused involuntary damages to the detriment of Nicholas Joseph Aydon Gatt..

The Prosecution requests that the mentioned person be disqualified from all his driving licenses."

Having seen that the case was assigned to this Court as presided;

Having seen all the documents produced;

Having heard all evidence;

Having heard final submissions;

Having seen all the acts of the case;

Considers:

On a preliminary note, the Court outlines that this case took such a long time to be decided, due to the fact that there were various adjournments, since the accused could not be traced and notified.

As regards the **first charge**, the accused is being accused that he drove the vehicle, bearing the registration number BBU716, without a driver's licence. The accused testified on several occasions and during his last testimony, he exhibited the original and a photocopy of the same original international driving licence (Dok JC1). The International Driving Permit (IDP), which is governed by the United Nations, certifies that a person has a valid driver's license in his home country. The IDP is a valid ID in over 150 countries worldwide, and it includes the person's name, photo, and driver information in the world's 12 most widely spoken languages. However, foreign nationals having a driver's license that has been issued outside of the European Union

(as in this particular case), are authorized to drive in Malta with their national driver's license, for a maximum of 12 months from their last entry date into the country. The accused stated in his testimony given on the 4th October, 2022, that he came to Malta in 2012 and therefore, when this particular incident happened, the 12 months had already lapsed.

From the affidavit of Stephen Cachia on behalf of Transport Malta, exhibited as TM1, it results that the accused was never in possession of a driving licence. Consequently, from all the evidence brought forth, the first charge has been amply proven.

As regards **the second charge**, the accused is being charged that he drove the same vehicle without a policy of insurance or such security, in respect of third party risks.

From the affidavit of PS 778 David Sant, it transpires that from the investigation, it resulted that the insurance cover for this vehicle was expired. The Prosecution exhibited a document from Gasan Mamo Insurance as Doc GM1, which showed that the insurance policy cover was expired on the 28th February, 2017, and the authorised drivers were the insured Muhammed Zafar, and any person over 25 years of age. The defence had exempted the Prosecution from summoning a representative of Gasan Mamo Insurance, to testify as to the veracity of Doc GM1.

The warden, Anthony Shinto, testified that the windscreen licence on the vehicle was expired, and that it showed February 2017. He stated that there was no valid insurance policy cover.

It is the responsibility of the accused to prove whether there was a valid insurance policy cover. This was not proven by defence. The accused at one point stated, that the car belonged to his friend and that the friend had told him that the vehicle was covered with insurance. On another occasion, he stated that he had paid insurance cover with Gasan Mamo Insurance. The defence also attempted to argue that the accused had already paid a fine with regards to this lack of insurance policy cover, but subsequently, it resulted that this fine, related to another offence concerning another incident, where the accused was caught driving without a valid insurance policy cover.

The Court notes that although proceedings were brought by Prosecution before the lapse of 6 months from the date of the commission of the alleged offence, the accused appeared before this Court during the sitting of the 17th September, 2018. There is no evidence brought forth that the accused was notified for the previous court sittings. Consequently, the case was not notified to the accused prior to the lapse of 6 months from the date of the commission of the alleged offence.

As a result, the Court does not find that the requisite of Article 3(3) of Chapter 104 of the Laws of Malta, was satisfied.

As regards the **third charge**, the accused is being accused that he involuntary caused damages to the detriment of Nicholas Joseph Aydon Gatt. PS 778 confirmed in his affidavit, that he went on the site where the collision took place and that he saw that the vehicle AMG105 owned by Nicholas Gatt, had damages in its front part.

The driver of the other vehicle involved in this collision, Elish May Cousins, testified that the accused came out from a STOP sign. She confirmed that the vehicle she was driving, belonged to Nicholas Gatt and that due to this collision, it had damages to the front bumper. She stated that she was driving down the road, and the accused came out from the STOP sign without stopping. She continued that she did not manage to stop in time and the collision occurred. The warden, Anthony Shinto, on the other hand, clarified that both drivers had a STOP sign in their carriage way. However, Elish May Cousins explained that she was driving in the main road and she did slow down, whereas the accused was coming from a secondary street. In fact, the vehicle driven by Cousins hit the side of the accused's car.

Nicholas Joseph Aydon Gatt, the alleged injured party, renounced to these proceedings during the sitting of the 27th November, 2018, and declared that he has no interest in the case, without prejudice to any rights for compensation in respect of any damages suffered.

Consequently, this Court shall abstain from taking further cognizance of this third charge, since the alleged injured party withdrew his complaint.

With regards to the punishment, the Court shall be applying the law, as it was in vigore at the time of the incident, i.e. in May 2017. The Court took note that in the charge sheet, the Prosecution requested this Court to disqualify the accused, in case he was found guilty.

Decide

For the above mentioned reasons, the Court after taking note of Articles 15(1)(a) and Articles 15(3) of Chapter 65 of the Laws of Malta; Article 3(1) and (3) of Chapter 104 of the Laws of Malta and Article 328(d) of Chapter 9 of the Laws of Malta, finds the accused guilty of the first charge brought against him and condemns him to pay a fine (multa) for the amount of one hundred and fifty Euro (€150.00). Furthermore, the Court orders that any driving licence of the accused be suspended for a period of ten (10) days, which period starts running from midnight of the date of this judgement. The Court finds that the proceedings against the accused, with regards to the second charge, are time-barred, in terms of Article 3(3) of Chapter 104 of the Laws of Malta, and consequently, refrains from taking further cognizance of the said charge. The Court also abstains from taking further cognizance of the third charge, since the alleged injured party withdrew his complaint.

Magistrate Dr. Simone Grech

**Janet Calleja
Deputy Registrar**